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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,431	12/12/2003	W. Scott Hammond	9965.3811	1430
22235 7590 09/10/2007 MALIN HALEY AND DIMAGGIO, PA 1936 S ANDREWS AVENUE FORT LAUDERDALE, FL 33316			EXAMINER ALI, MOHAMED HATEM	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 09/10/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/707,431

Applicant(s)

HAMMOND, W. SCOTT

Examiner

Mohamed H. Ali

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 0223.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention (**see para 0028 of specification**). Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1 and 2-12** are rejected under 35 U.S.C. 102(e) as being anticipated by Madden et al (US 6,904,414 B2)

**As per claim 1**, Madden et al discloses a method useful in real estate mortgages in which the initial cash payment made by a real estate buyer termed the down payment (see col.5, lines 15-40 via specific example with 20% down payment) is used throughout the term of the mortgage to generate earnings (see col.5 and 6, line 55; via advantages of mortgage plan [4] increasing the purchasing capacity of the borrower and the lender with enhanced rate of return in addition to increased equity participation by both) .

**As per claim 3**, Madden discloses that the buyer/borrower's down payment is used as security against the mortgage on behalf of the lender (see col.6, line 1; via advantage of the mortgage plan where the lender obtain a higher risk-adjusted ate of return inherently because of 20% down payment as motioned with specific example).

**As per claim 4**, Madden discloses that the lender provides a 100% mortgage wherein the mortgage payments return the principal (see col.5, lines 24-25; via monthly payments on principal [D]).

**As per claim 5**, Madden discloses that the down payment of the buyer/borrower is used as equity on behalf of the buyer (see col.5, lines 15-45; via 20% down payment inherently is the equity from the buyer).

**As per claim 6**, Madden discloses that the buyer/borrower received the equivalent of an 80% mortgage plus interest with a 20% down payment (see col.5; specific example).

**As per claim 7**, Madden discloses that the down payment is considered prepaid interest on the mortgage (see col.5, lines 45-55; via [III, Y] prepaid principal factor E, inherently down payment is considered prepaid interest).

**As per claim 8**, Madden discloses the down payment earnings are used to increase lender profits while lowering borrower interest rates and/or monthly payment.

**As per claim 9** the mortgage is assumable or transferable (see col5, line 65-67; via borrower can assume a larger mortgage).

**As per claim 10**, madden disclose that a 4.9% interest, ten-year mortgage is derived (see col.5, lines 26-28; via compounded rate of 3.5% and mortgage period 15 years could be any other rates and periods respectively in the example of mortgage plan).

**As per claim 11**, Madden discloses that prepayment penalties are eliminated (see col.16, claims 13-14; penalty continuously declined over initial terms of the mortgage inherently could be eliminated).

**As per claim 12**, madden discloses that the mortgage interest rate is fixed through the term of the loan (see col.5, lines 15-40; via preferred embodiment with specific example with amortization period of 15 years and the real estate appreciated at a rate of 3.5%, inherently at a fixed rate).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 2 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Madden et al in view of Nalebuff et al (US 2003/0110111 A1).

**As per claim 2**, Madden fails to explicitly disclose that the down payment generates earnings through compounding balloon loans.

However, Nalebuff et al in the same field of invention teaches the concept of putting down \$10,000 for house purchase by a buyer to take a 30-year \$90,000 mortgage at 75% interest in the form of a balloon payment at mortgage terminal (see para 0037; via example).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the down payment earnings to include the protection of the full value of house of \$100,000 in order to facilitate by \$10,000 guarantee to the homeowner

**As per claim 13**, Madden fails to explicitly disclose that the mortgage is insured through a mortgage insurance account.

However, Nalebuff et al in the same field of invention discloses the concept of mortgage related financial product for risk control through index value applied to mortgage accounts as a form of asset depreciation insurance (see para 0018, via depreciation and equity insurance).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to include the asset valuation index for real estate values in

order to facilitate the linking of financial product as insurance vehicle to protect/insulate the owner from any loss (para 0028).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nichols (US 2003/0246267 A1) discloses Mortgage Finance System to borrower to create long and short-term financial security.

Luntz et al (US 2004/0172351 A1) discloses a grant to a seller to help a buyer from charitable contribution.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohamed H. Ali whose telephone number is 571-270-3021. The examiner can normally be reached on 8.00 to 5.30.

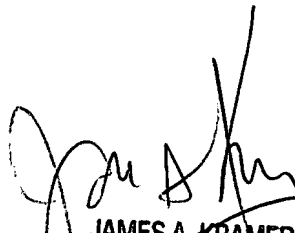
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on 571-272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mohamed H Ali  
Examiner  
Art Unit 3693

MA

 9-3-07  
JAMES A. KRAMER  
SUPERVISORY PATENT EXAMINER  
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